

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:12-cv-152**

**MARY ANN HURTADO,**

**Plaintiff,**

**vs.**

**INDONESIAN MUSIC, a Maryland  
Corporation d/b/a “TEMPEH ONLINE,”  
NIRMALA PANE a/k/a NIRMALA PANE  
BRAAM d/b/a “TEMPEH ONLINE,” and  
SMILING HARA, LLC, a North  
Carolina corporation,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Plaintiff filed this Complaint (#1) based upon diversity jurisdiction. In the Complaint, the Plaintiff alleges that Smiling Hara, LLC is a limited liability corporation organized under the laws of the state of North Carolina. The Defendant has admitted that allegation.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4<sup>th</sup> Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C.

§1447(c)("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). The Defendant Smiling Hara, LLC has not disclosed whether it has constituent members or partners and where those constituent members or partners have their citizenship and therefore will be required to do so.

**IT IS, THEREFORE, ORDERED** that on or before November 27, 2012, the Defendant Smiling Hara, LLC shall file a response disclosing the names and citizenships of all the constituent members or partners of Smiling Hara, LLC and to identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: November 6, 2012



Dennis L. Howell  
United States Magistrate Judge

